



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,103	02/05/2002	Dan E. Fischer	7678.569	5744

22913 7590 04/17/2003

WORKMAN NYDEGGER & SEELEY  
1000 EAGLE GATE TOWER  
60 EAST SOUTH TEMPLE  
SALT LAKE CITY, UT 84111

EXAMINER

WILSON, JOHN J

ART UNIT	PAPER NUMBER
----------	--------------

3732

DATE MAILED: 04/17/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicant(s)

10/068,103

Applicant(s)

FISCHER ET AL.

Examiner

John J. Wilson

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,4,7,8. 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 32, 34, 35, 38 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Kennedy et al (5634711). Kennedy shows a body having a light 14, Fig. 7, at the distal end, a heat sink 26 and lens 136. As to claim 38, see controls 42, 44. As to claim 39, see battery in broken lines of Fig. 1, column 3, lines 30-37.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 8, 9, 11-13, 15-27 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bailey et al (5013240) in view of Kennedy et al (5634711). Bailey shows a light curing device 30 having a body as suggested that is sized to be received in a holding tray at 83 that also receives other dental instruments as shown. Bailey does not show a curing device having a light source at the distal end. Kennedy shows a light source 22 at the distal end. It would be obvious to one of ordinary skill in

Art Unit: 3732

the art to modify Bailey to include a light source located as shown by Kennedy in order to make use of art known ways of locating element to better deliver light to the work site. As to claim 5, see controls 42, 44 of Kennedy. As to claim 8, see battery in broken lines of Fig. 1 of Kennedy, column 3, lines 30-37. As to claims 9 and 18, see lens 136, Fig. 7, of Kennedy, column 4, lines 35-42. As to claim 15, the controls 42, 44 of Kennedy can inherently function to be manipulated by a thumb. As to claim 17, Kennedy shows a cylindrical shape. As to claim 29, see the tapered surface as shown in Fig. 9 of Bailey and as is well known in the art.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bailey et al (5013240) in view of Kennedy et al (5634711) as applied to claim 1 above, and further in view of Sullivan (5975895). The above combination does not show controls for activating the light source for a duration of time and for altering the time. Sullivan shows a control 28 that activates a timer and includes a control for altering the timer, column 6, lines 66 and 67, and column 7, lines 1-12. It would be further obvious to modify the above combination to include controls as shown by Sullivan in order to better deliver the desired amount of light to the work site.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bailey et al (5013240) in view of Kennedy et al (5634711) as applied to claim 6 above, and further in view of Senn et al (6068474). The above combination does not show a lens that is configured to filter light. Senn shows a filter lens 52, column 5, lines 64-68, and

column 6, lines 1-4. It would be further obvious to one of ordinary skill in the art to modify the above combination to include a filter lens as shown by Senn in order to deliver the desired type of light to the work site. As to claims 9 and 27, see removable lens 52 in Fig. 2 of Senn. As to claim 31, column 1-4 of Senn teaches a protective lens. As to claim 33, Kennedy shows controls as detailed in the paragraph above.

Claims 14 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bailey et al (5013240) in view of Kennedy et al (5634711) as applied to claim 1 above, and further in view of Verderber (5457611). While Kennedy shows a heat sink 26, the above combination does not show the type of material used for the heat sink. Verderber teaches using aluminum for a heat sink 30, column 3, lines 29-35. It would be further obvious to one of ordinary skill in the art to modify the above combination to include using an aluminum heat sink as shown by Verderber in order to make use of known materials to better dissipate heat.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy (5634711) in view of Bailey et al (5013240). Kennedy shows the structure as described above with respect to claim 32, however, does not show a holding tray. Bailey shows a holding tray at 83 for a light curing device and for other dental hand pieces. It would be obvious to one of ordinary skill in the art to modify Kennedy to include a holding tray as shown by Bailey in order to conveniently store the instruments.

Art Unit: 3732

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy (5634711) in view of Verderber (5457611). Kennedy shows the structure as described above with respect to claim 35, however, does not show the type of material used for the heat sink 26. Verderber teaches using aluminum for a heat sink 30, column 3, lines 29-35. It would be further obvious to one of ordinary skill in the art to modify the above combination to include using an aluminum heat sink as shown by Verderber in order to make use of known materials to better dissipate heat.

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy (5634711) in view of Senn et al (6068474). Kennedy shows the structure as described above with respect to claim 32, however, does not show that the lens 136 is used as a protective lens. Senn teaches using a lens 52 that is used as a protective lens, column 6, lines 1-4. It would be obvious to one of ordinary skill in the art to modify Kennedy to include a protective lens as shown by Senn in order to protect the light source.

### ***Drawings***

The drawings filed February 5, 2002 have been found to be acceptable by the examiner.

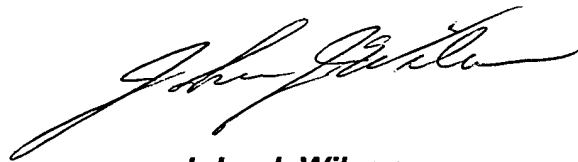
### ***Information Disclosure Statement***

All of the citations on the IDS filed April 22, 2002 have been crossed through because these citations do not qualify as prior art.

***Conclusi n***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cao (6331111) shows a focusing lens 1407, column 13, lines 53-61. Osterwalder et al (6102696) shows offset LEDs, Fig. 3, the light of which is channeled to overlap.

Any inquiry concerning this communication should be directed to John Wilson at telephone number (703) 308-2699.



**John J. Wilson  
Primary Examiner  
Art Unit 3732**

jjw  
April 14, 2003  
Fax (703) 308-2708  
Work Schedule: Monday through Friday, Flex Time